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PATENT

Our Docket: P41 9380

07 MAR 1994

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:  
Harpold et al.

Serial No. 07/938,154

Filed: November 30, 1992

For: HUMAN NEURONAL NICOTINIC  
ACETYLCHOLINE RECEPTOR  
COMPOSITIONS AND METHODS

Legal Staff

International Division

I hereby certify that this correspondence is being deposited  
with the United States Postal Service as first class mail in an  
envelope addressed to: Commissioner of Patents and Trade  
marks, Washington, D. C. 20231, on 8/6/93

BY: [Signature]

Stephan E. Reiter Reg. No. 31,192

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Date of Signature

SEP 1 1993

OFFICE OF PETITIONS  
A/C PATENTS

Honorable Commissioner of  
Patents and Trademarks  
Washington, D.C. 20231

Attention: Office of the Assistant Commissioner for Patents

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
UNAVOIDABLY ABANDONED UNDER 37 CFR 1.137(a)

Sir:

This is a petition to revive the above-identified  
application as unavoidably abandoned.

This application derives from PCT/US91/02311 (filed  
April 3, 1991). Applicants timely filed, via Express Mail, all  
papers necessary to enter the national phase, on November 30,  
1992, (copies provided herewith as Exhibit 1). A copy of the  
International Application as filed was not provided at that time  
as it was not required, since the International Application was  
filed with the United States Receiving Office (RO/US).

The Notice of Incomplete Application, mailed July 16,  
1993, (copy provided herewith as Exhibit 2) asserts that a  
drawing of Figure 9 described in the specification is required.  
The application provided to the USPTO by the International Bureau  
of WIPO is respectfully submitted to be complete. Whereas the  
originally filed application had 3 sheets labelled "Figure 9(a)",

See Paper #3

"Figure 9(b)" and "Figure 9(c)", respectively (copies provided herewith as Exhibit 3), the PCT document provided by the International Bureau of WIPO contains five sheets, which correlate to the original sheets of drawings as follows:

<u>Original Figure</u>	<u>Substitute Sheet No.</u>
9(a)	9a-1 and 9a-2
9(b)	9b-1 and 9b-2
9(c)	9c

Copies of the 5 substitute sheets referred to above are provided herewith as Exhibit 4. It is clear that substitute sheets 9a-1 and 9a-2 collectively contain the same sequence information as originally presented on one sheet as Figure 9(a). Similarly, substitute sheets 9b-1 and 9b-2 contain the same sequence information as originally presented on one sheet as Figure 9(b). In similar fashion, original Figure 8, wherein the top half of the Figure is labelled "Section A" and the bottom half labelled "Section B", became two sheets, "Figure 8A" and "Figure 8B" upon submission of substitute sheets containing the drawings in a form which satisfied all formality requirements.

With respect to the further indication on the "Notice to File Missing Parts of Application" (copy provided herewith as Exhibit 5) the oath or declaration does not cover items required on "Notice of Incomplete Application", the alleged insufficiency is not understood. At the time the oath/declaration was executed by the inventors, the application had not yet entered the national phase in the U.S. Thus, the filing date and serial number for this application was not known at that time. Accordingly, the oath/declaration referred to both the PCT application from which it is derived (see page 1 of the Declaration; Exhibit 6) and the Serial No. of the U.S. priority document from which the PCT application claims priority (see pages 2 and 3 of the Declaration; Exhibit 6).

It is respectfully submitted that the declaration submitted at the time the request to begin national stage proceedings was filed fully complies with 37 C.F.R. 1.63.


In view of the timely submitted documentation provided in connection with the entry of this application into the national stage in the U.S., it is respectfully submitted that Applicants are entitled to the filing date of November 30, 1992, the date all required documents were submitted to the PTO.

In view of the above remarks, withdrawal of the "Notice of Incomplete Application" and prompt initiation of prosecution of the above-identified application on the merits is respectfully requested.

In view of the fact that Applicants timely complied with all requirements for entry into the national phase in the United States, it is respectfully requested that the petition fee of \$130.00 provided herewith be refunded. Please credit such refund to Deposit Account No. 16-2460.

8/6/93  
Date

Respectfully submitted,

  
\_\_\_\_\_  
Stephen E. Reiter  
Registration No. 31,192  
Telephone: (619) 546-4737  
Facsimile: (619) 546-9392

Pretty, Schroeder, Brueggemann & Clark  
444 South Flower Street, Suite 2000  
Los Angeles, California 90071

Exhibit 1

SIBIA 11/30/92 51247 PHW/dcs  
Harpold, etal. - "Human Neuronal Nicotinic Acethylcholine  
Receptor Compositions and Methods of Employing Same".  
U.S. Stage of PCT/US91/02311  
Transmittal Letter (2 sheets); Combined Declation & Power of  
Attorney (3 sheets); Recordation form cover sheet with  
Assignment (4 sheets); Amendment of Claims under Art. 41.;  
Check - \$880.00/Filing Fee.

Hon. Commissioner of Patents and Trademarks

Sir:

Please acknowledge receipt of the above identified documents by  
applying the Patent and Trademark Office receipt hereto and mailing this  
card.

Respectfully,

**FITCH, EVEN, TABIN & FLANNERY**

File in 51247  
Harpold

SIBIA 11/30/92 51247 PHW/dcs  
Harpold, et al. - "Human Neuronal Nicotinic Acetylcholine  
Receptor Compositions and Methods of Employing Same".  
U.S. Stage of PCT/US91/02311  
Transmittal Letter (2 sheets); Combined Declaration & Power of  
Attorney (2 sheets); Form cover sheet with  
Assignment (2 sheets); Amendment of Claims under Art. 41.;  
Check - \$330.00 filing fee.

Hon. Commissioner of Patents and Trademarks

Sir:

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07/938154  
30 NOV 1992

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Respectfully,

FITCH, EVEN, TABIN & FLANNERY